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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/783,241

02/14/2001

Ronald P. Cocchi

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05/23/2006

THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

EXAMINER

SHELEHEDA, JAMES R

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/783,241

Applicant(s)

COCCHI ET AL.

Examiner

James Sheleheda

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: 892 attached



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
Part of Paper No. 20060425

Continuation of 11. does NOT place the application in condition for allowance because:

On pages 10 and 11, of applicant's response, applicant argues that the code key "C" of Hunter, do not constitute a subscriber renewal notice as they are keys for particular movies, and not for a subscriber.

In response, as indicated in the previous action, Hunter specifically discloses wherein the subscriber will be provided the proper key for each and every movie, on a monthly basis, if they are current in their payments. As keys for each movie are provided to the subscriber, based upon the subscriber's renewal of the service (bill payment), they clearly qualify as a "subscriber renewal notice". The keys are provided to a particular subscriber location to allow that particular subscriber to access any of the available movies (paragraphs 82 and 83). While the individual keys allow decryption of individual movies, ALL of the keys at the subscriber location are renewed on the basis of the subscriber paying their bill. As the keys for ALL the movies are provided to an individual subscriber on a monthly basis, they clearly meet the extremely broad claim limitation of a "subscriber renewal notice."

Furthermore, it is noted that applicant's specification merely defines a "subscriber renewal notice" as "pay-TV service provider facility data" (see page 2, lines 25-29). As the code keys C, as defined by Hunter, are transmitted on a monthly basis to an individual subscriber, as a direct result of the subscriber PAYING their current fees, they clearly meet this limitation.

In response to applicant's arguments on page 12, that the subscriber renewal notice is understood to renew a "package" for the subscriber,

1. It is noted that the definition applicant is attempting to provide to the subscriber renewal notice, i.e. as pertaining to some sort of "package", as opposed to a particular movie, is not supported by the current specification, which does not define what the renewal notice pertains to.

2. As repeatedly pointed out to applicant, Hunter discloses wherein a subscriber will receive, on a monthly basis, code keys for EACH available movie. While not necessarily required by the current claim limitations, the current rejections are based upon the receipt of all of the code keys C. These keys together constitute the subscriber renewal notice, as they are renewed on a monthly basis to provide access to movies.

On page 12, of applicant's response, applicant argues that Hunter does not specifically disclose that the subscriber renewal notice is typically transmitted via broadcast, and thus saves broadcast bandwidth by transmission via the Internet, and furthermore that this limitation was "ignored" by the statement that Hunter inherently takes advantage of this benefit.

In response, as indicated in the previous rejections, Hunter discloses the transmission of a subscriber renewal notice (consisting of decryption keys for programming) via the Internet. As indicated in the action, decryption keys are typically and known to be transmitted via the broadcast signal, and thus any transmission via the Internet, as opposed to the broadcast signal, saves broadcast bandwidth. Applicant's assertion that a limitation is somehow being "ignored" is incorrect. Transmitting the decryption keys through the Internet instead of the broadcast signal inherently saves broadcast bandwidth, as less data is then being transmitted through the broadcast channel.

Furthermore, in response to applicant's arguments that it is not typical for keys to be transmitted through the broadcast channel, applicant is provided with the following evidence as to this fact.

Morales (5,291,554) disclosing wherein decryption keys are transmitted through the broadcast satellite link (column 8, lines 24-59). Bigham et al. (5,544,161) disclosing transmitting a decryption key through the broadcast channel (column 5, lines 26-44 and Fig. 1). Wool (EP 898425 A2) disclosing wherein "package" keys for subscriber programming packages are downloaded to a subscriber through a broadcast channel (Fig. 1 and paragraph 14, paragraph 19 and 20).

In response to applicant's arguments on page 13, in regards to the combination of Hayward with Nakano and Hunter, applicant's arguments are not convincing. Nakano specifically discloses wherein the input device, while envisioned as a set top box, can constitute any device having access to the network (paragraph 12), even explicitly including a PC (paragraph 12). As Nakano clearly defines his set top box as being synonymous with a computer connecting to a network, Hayward's computer which connects to the Internet is clearly analogous art. Furthermore, as indicated in the rejection, the relied upon feature and motivation, of allowing dial-up connection to the Internet, are clearly unrelated to the particular network device, and would be relevant to any computing device.